

DEPARTMENT OF THE CORPORATION COUNSEL 205

MOANA M. LUTEY 6385

Corporation Counsel

CALEB P. ROWE 9520

IWALANI MOUNTCASTLE GASMEN 8538

Deputies Corporation Counsel

County of Maui

200 South High Street

Wailuku, Maui, Hawaii 96793

Telephone No. (808) 270-7741

Facsimile No. (808) 270-7152

Email: caleb.rowe@co.maui.hi.us

Attorneys for Defendants

MICHAEL VICTORINO, in his official capacity as Mayor of the County of Maui,

ALICE L. LEE, in her official capacity as Chair of the Maui County Council, and

COUNTY OF MAUI

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

HAWAIIAN KINGDOM,

Plaintiff,

vs.

JOSEPH ROBINETTE BIDEN JR.,  
in his official capacity as President  
of the United States; KAMALA  
HARRIS, in her official capacity as  
Vice-President and President of the  
United States Senate; et al.

Defendants.

CIVIL NO. 21-00243 LEK-RT

DEFENDANTS MICHAEL  
VICTORINO, ALICE L. LEE, and  
COUNTY OF MAUI'S  
SUBSTANTIVE JOINDER TO  
DEFENDANTS DEREK  
KAWAKAMI, ARRYL KANESHIRO  
AND COUNTY OF KAUA'I'S  
MOTION TO DISMISS PLAINTIFF'S  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF FILED  
ON MAY 20, 2021 [ECF NO. 1],  
FILED JULY 1, 2021 (ECF NO. 15);  
CERTIFICATE OF SERVICE

**District Judge:** Hon. Leslie E.  
Kobayashi

**Magistrate Judge:** Hon. Rom. A.  
Trader

No Trial Date Set

**DEFENDANTS MICHAEL VICTORINO, ALICE L. LEE, and COUNTY  
OF MAUI’S SUBSTANTIVE JOINDER TO DEFENDANTS DEREK  
KAWAKAMI, ARRYL KANESHIRO AND COUNTY OF KAUA’I’S  
MOTION TO DISMISS PLAINTIFF’S COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF FILED ON MAY 20, 2021  
[ECF NO. 1], FILED JULY 1, 2021 (ECF NO. 15)**

Defendants MICHAEL VICTORINO, in his official capacity as Mayor of the County of Maui, ALICE L. LEE, in her official capacity as Chair of the Maui County Council, and COUNTY OF MAUI, (hereinafter “Maui County Defendants”), by and through their attorneys MOANA M. LUTEY, Corporation Counsel, CALEB P. ROWE and IWALANI MOUNTCASTLE GASMEN, Deputies Corporation Counsel, hereby files their Substantive Joinder to Defendants Derek Kawakami, Arryl Kaneshiro and County of Kaua’i’s Motion to Dismiss Plaintiff’s Complaint for Declaratory and Injunctive Relief Filed on May 20, 2021 [ECF No. 1], filed July 1, 2021 (ECF No. 15) (“Kaua’i County’s Motion”).

Maui County Defendants join in Kaua’i County Defendants’ argument, that Plaintiff HAWAIIAN KINGDOM’s (“Plaintiff”) Complaint for Declaratory and Injunctive Relief, filed on May 20, 2021 [ECF No. 1] (“Complaint”) be dismissed

with prejudice pursuant to Federal Rules of Civil Procedure (“FRCP”) Rules 12(b)(1) and 12(b)(6) because: (1) this Court lacks subject matter jurisdiction; and (2) Plaintiff has failed to state facts entitling it to the relief it requests. Further, the Maui County Defendants assert that the Mayor Michael Victorino and Council-chair Alice Lee are entitled to Qualified Immunity on the same basis that Mayor Derek Kawakami and Council-chair Arryl Kaneshiro are so entitled.

This Joinder is brought pursuant to FRCP Rule 7, Local Rules of Practice for the U.S. District Court, District of Hawai’i Rules LR7.1, LR7.2, LR7.4, LR7.7, and is supported by all submissions, arguments and authorities relied on by Kaua’i County Defendants in support of Kaua’i County’s Motion, including Kaua’i County Defendants’ Memorandum in Support of Motion, along with the entire record and files of this case, and such other evidence as may be adduced at the hearing on this motion.

DATED: Wailuku, Maui, Hawaii, July 12, 2021.

MOANA M. LUTEY  
Corporation Counsel  
Attorneys for Defendants

MICHAEL VICTORINO, in his official capacity  
as Mayor of the County of Maui, ALICE L. LEE,  
in her official capacity as Chair of the Maui  
County Council, and COUNTY OF MAUI

By           /s/Caleb P. Rowe            
CALEB P. ROWE  
IWALANI MOUNTCASTLE GASMEN  
Deputies Corporation Counsel

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the following electronically via CM/ECF at their last known address on the date below:

DEXTER K. KA'IAMA, ESQ.  
Department of the Attorney General  
Hawaiian Kingdom  
P.O. Box 2194  
Honolulu, Hawaii 96805-2194

attorneygeneral@hawaiiankingdom.org  
cdexk@hotmail.com

Attorney for Plaintiff  
HAWAIIAN KINGDOM

MARK D. DISHER, ESQ.  
DAKOTA K. FRENZ, ESQ.  
LERISA L. HEROLDT, ESQ.  
Office of the Corporation Counsel  
County of Hawai'i  
101 Aupuni Street, Suite 325  
Hilo, Hawaii 96720

mark.disher@hawaiiicounty.gov  
dakota.frenz@hawaiiicounty.gov  
lerisa.heroldt@hawaiiicounty.gov

Attorneys for Defendants  
COUNTY OF HAWAI'I, MITCHELL  
ROTH, and MAILE DAVID

MATTHEW M. BRACKEN, ESQ.

mbracken@kauai.gov

MARK L. BRADBURY, ESQ.

mbradbury@kauai.gov

Deputy County Attorney

Office of the County Attorney

4444 Rice Street, Suite 220

Lihu'e, Hawaii 96766

Attorneys for Defendant

DEREK KAWAKAMI, ARRYL

KANESHIR and COUNTY OF

KAUAI

DATED: Wailuku, Maui, Hawaii, July 12, 2021.

MOANA M. LUTEY

Corporation Counsel

Attorneys for Defendants

MICHAEL VICTORINO, in his official capacity  
as Mayor of the County of Maui, ALICE L. LEE,  
in her official capacity as Chair of the Maui  
County Council, and COUNTY OF MAUI

By           /s/Caleb P. Rowe          

CALEB P. ROWE

IWALANI MOUNTCASTLE GASMEN

Deputies Corporation Counsel